



PLANNING SUPERVISOR'S APPOINTMENT

PART 2 – CONDITIONS OF ENGAGEMENT

C 0 INTRODUCTION

Co-ordination concerning the health and safety of workers should be organized for every of building or civil engineering construction site where several self-employed persons or contractors, including sub-contractors intervene, to prevent the risks resulting from their simultaneous or successive interventions and to anticipate, when necessary, the use of shared means such as infrastructure, logistic and collective safety measures.

This co-ordination is organized both during the Design Phase, the design and development of the project and the Construction Phase of the Works.

The Client appoints a Planning Supervisor for health and safety protection, who could be a physical person or legal entity, at the beginning of the Sketch Design Work Stage, for each or both of these Phases.

Within the same project, the same physical person can exercise the role of Planning Supervisor and Architect. However, when the project exceeds 760,000 euros, the Planning Supervisor and Architect shall be different physical persons.

In addition to the specific provisions of the Agreement, the parties undertake to comply with their respective the obligations and rights in accordance with current laws and regulations, in particular:

- the Architecture Act 1977 amended and its decrees of application, in particular decree N° 80-217 1980 pertaining to the Architects' Code of Professional Conduct; and
- the clauses L230 and thereafter, and R238-1 and thereafter of the Labour Code.

C 1 DEFINITIONS

The term "**Client**" means the physical person or legal entity for whom the service is provided and who pays the fees (directly or indirectly).

The term "**Planning Supervisor**" means a physical person or legal entity, possessing the required qualifications and who is appointed by the Client to provide services to assure health and safety in accordance with clauses L230 and thereafter, and R238-1 and thereafter of the Labour Code.

The term "**Agreement**", which binds the Client and the Planning Supervisor means the "Articles of Agreement" and the present "Conditions of Engagement". These two documents, of which the articles/clauses begin respectively with letters "**A**" and "**C**", are complementary.

♦ The **Conditions of Engagement** defines the general conditions governing the relations between the Client and the Planning Supervisor.

♦ The **Articles of Agreement** defines the specific conditions of the Planning Supervisor's Appointment agreed with the Client and determines mainly:

- the name and the legal entity of the contracting parties;
- the purpose of the project;
- the services attributed to the Planning Supervisor;
- the conditions, the amount and the basis of his fee calculations; and
- the conditions by which the Planning Supervisor satisfies his professional indemnity insurance obligations.

The Conditions of Engagement and the Articles of Agreement were drawn up by the Ordre des Architectes. The legislation (L) and regulation (R) clauses referred to in the present Conditions of Agreement are from the French Labour Code.

C 2 PLANNING SUPERVISOR'S SERVICES

Planning Supervisor's services differ depending upon the category of the project whereupon he intervenes. There are three categories.

C 2.1 - GENERAL

Irrespective of the category of the project, the Planning Supervisor should:

C 2.1.1 Apply the general safety principles

To assure the safety and to protect the health of all the persons who intervene on a building or civil engineering construction site, the Planning Supervisor should, during the Design Stage as well as during the Construction Stage, implement the general safety principles scheduled below :

- ♦ Avoid risks
- ♦ Evaluate risks that cannot be avoided
- ♦ Deal with risks at the source
- ♦ Take in account technical developments
- ♦ Replace dangerous activity by that which is not dangerous or which is less dangerous
- ♦ Plan prevention by integrating, within a coherent whole, technical, work organization, work conditions, social relations and the influence of local conditions.
- ♦ Take collective safety measures, giving them priority over individual safety measures.

These principles are notably taken into account during the architectural and technical options as well as the organization of construction site operations, to allow for the planning of different construction work or the work phases that take place simultaneously or successively, to anticipate the duration of these phases and to facilitate future interventions on the building.

C 2.1.2 To take into account interference with the business activities within the site or located near to the construction site in particular

- ♦ Before commencement of construction, with the manager of the activity in service, undertake a joint inspection aimed at delimiting the construction site, to define the zones within which the construction site is located which can present specific dangers for the contractors' employees, to determine the traffic routes that the employees, vehicles and all kinds of contractor machinery undertaking the construction work can take, as well as to define, for open and not independent construction sites, sanitary facilities, change and lunch rooms available for use by their employees.
- ♦ To issue to Contractors called upon to intervene on the construction site the safety directives agreed with the manager of the establishment and, in particular, those they should give to their employees, as well as those concerning open and not independent construction sites, the procedures necessary to provide first aid in the event of an emergency and the description of the provisions set up for that purpose in the establishment.

C 2.1.3 During Design Phase

- ♦ He defines the different constraints pertaining to the implementation and use of collective safety measures, the hoists, the temporary accesses and the general installations, in particular the electrical installations, and mentions in a document their distribution between the different trades or tradesmen who are to intervene on the construction site; and
- ♦ He assures the taking on of the directives and the issue of the above-mentioned documents to the Construction Phase Planning Supervisor when this is a separate appointment.

C 2.1.4 During Construction Phase

- ♦ He takes necessary action so that only authorized persons can enter the construction site.
- ♦ He organizes between the different Contractors, including Sub-Contractors, whether or not they are present together on the construction site, the co-ordination of their simultaneous or successive activities, the procedure for their shared use of facilities, vertical and horizontal movement plant, their shared information as well as the exchange between them of the health and safety directives.

For that purpose, in particular, he shall proceed with each Contractor, including Sub-Contractors, before their intervention, with a joint inspection during which are defined, according to the characteristics of the construction work that this Contractor prepares to undertake, the directives to be respected or to be issued and the specific provisions of health and safety taken for the whole project. This joint inspection takes place before the issue of the Specific Health and Safety Plan when the Contractor is under the obligation to draft it.

- ♦ He monitors the correct application of the co-ordination measures that he has defined as well as conflicting work procedures.

C 2.2 – 3rd CATEGORY PROJECTS

C 2.2.1 - Definition

These are projects other than 1st and 2nd category projects; that is, construction sites for which the volume is less than 500 person-days. When it is planned to undertake construction work presenting specific risks recorded on the schedule fixed by the 25th February 2003 decree, they are under the obligation to draw up an outline general health and safety plan.

C 2.2.2 – Professional Services

♦ Open Health and Safety File

The Health and Safety File should be prepared on signing the Agreement or amendment and contains:

1° The reports of the joint inspections, the directives to be issued and the specific provisions of health and safety taken for the whole project that the Planning Supervisor has approved by the Contractor concerned.

2° The comments or the notifications which the Planning Supervisor might consider necessary to make for the Client, for the Architect or for all others concerned on the construction site and which he has approved in each case by the or those concerned with their eventual comments.

3° When known to the Planning Supervisor, he lists the names and addresses of the Contractors, Co-Contractors and Sub-Contractors as well as the approximate date of each of their intervention on the construction site and, for each Contractor, the predicted workforce allocated to the construction site and the anticipated duration by the construction work. If necessary, this list is completed at the time of the intervention on the construction site and kept updated.

4° If required, confirmation of the issue of directives to the Planning Supervisor who replaces him.

5° A copy of the report concerning future intervention on the building established during the issue of the file to the Client.

The Health and Safety File is made available, on request, to the Architect, the labour inspector, the representative of the safety department of the public health service as well as at the representative of the *Organisme professionnel de prévention du bâtiment et des travaux publics (OPPBTB)*.

The Planning Supervisor should keep the Health and Safety File for a period of 5 years from the date of Final Completion.

♦ Prepare and update a file concerning future intervention on the building

The file should be established as from the Design Phase and updated during the construction work. It collates under one cover, all the documents such as plans and technical notes, in a form to facilitate future intervention on the building. It should allow to better integrate during construction, the safety conditions of those who will have to undertake building maintenance.

In particular shall be kept on this file, the measures taken for:

1° Cleaning glazed areas in elevation and on roofs

2° Roof access (stowage, circulation paths, etc.)

3° Facilitate the maintenance of elevations (stowage, scaffolding or cradle stability)

4° Facilitate internal maintenance (cleaning high-ceiling halls, lifts, ductwork)

The file should also include the workplace maintenance manual when it concerns the construction of buildings intended for industrial, commercial or agricultural activities. A file is made available to the labour inspector and the representative of the safety department of the public health service.

The file is issued to the Planning Supervisor appointed for the Construction Stage, when a separate appointment. This issue is also to be recorded on file. The Construction Stage Planning Supervisor issues it to the Client at Final Completion.

♦ Prepare Outline General Health and Safety Plan for projects presenting a specific risk

The Outline General Health and Safety Plan takes into consideration appropriate measures to prevent the risks ensuing from the conflicting specific risks of the construction work with other activities of the different contractors on the construction site or from the succession of activities when a contractor leaves, after completion, one of the particular risks recorded in the same schedule.

It should be established in writing, before the Tender Action or after commencement of the construction work, if the Planning Supervisor is only informed later, of the existence of one or some construction work presenting these specific risks.

It is completed and adapted according to the advancement of the construction work and of the actual duration allocated to the different types of construction work or work phases. The Contractors are advised of these modifications.

Following their preparation, he adds the Outline Specific Health and Safety Plan prepared by the other Contractors.

On the signing of the contract, the Planning Supervisor is obliged to issue to each Contractor intervening on a construction site under the obligation of an Outline General Health and Safety Plan, the names and addresses of the other Contractors.

On request, he issues to each Contractor the Outline Specific Health and Safety Plan established by the other Contractors.

When it concerns a construction project, amongst other, he is obliged to issue to the other Contractors, the Outline Specific Health and Safety Plan of the structure Contractors or the Main Contractor and the Outline Specific Health and Safety Plan of those retained to execute works presenting specific risks.

As from the Tender Action, the Client issues the Outline General Health and Safety Plan, on their request, to the labour inspector and the representative of the safety department of the public health service as well as to the representative of the *OPPBT*.

The labour medical officer can consult the Outline General Health and Safety Plan, the hygiene, safety and employment conditions committee members (CHSCT) or by default, employee representatives.

The Client should keep it for a period of 5 years from the date of Final Completion.

C 2.3 – 2nd CATEGORY PROJECTS

C 2.3.1 - Definition

Projects whose volume is more than 500 person-days, i.e. 4,000 hours are subject to the obligation to make a statutory notification in accordance with clause L 235-2.

C 2.3.2 – Professional Services

- ♦ Prepare Health and Safety File (Refer clause C2.2.2)
- ♦ Prepare and complete a file concerning future intervention on the building (Refer clause C2.2.2)
- ♦ Assist Client with statutory notification

Building or civil engineering projects for which the estimated workforce exceeds twenty workers at any one time during the construction work and the duration of which shall exceed thirty working days, as well as those whose anticipated volume is superior to 500 person-days, are subject to the obligation of notification.

The Client issues the statutory notification to the labour inspector, to the regional committee of *OPPBT* and to the relevant public health service department for the prevention of occupational hazards:

- at the date of making planning application, or
- for projects not subject to planning permission, at least 30 days before the actual commencement of construction.

The notification, which must be displayed on the construction site, contains (*Decree 7th March 1995 determines the contents of the notification*):

- 1° notification date
- 2° exact construction site address
- 3° name and address of the Client
- 4° building type
- 5° name(s) and address(es) of the Architect(s)
- 6° name(s) and address(es) of the Planning Supervisor(s)
- 7° provisional commencement date of construction work
- 8° provisional construction work period
- 9° name(s) and address(es) of successful tender(s) or Contractor(s) already appointed
- 10° name(s) and address(es) of anticipated Sub-Contractor(s)
- 11° projected workforce to intervene on the construction site
- 12° expected number of Contractors to intervene on the construction site

The Planning Supervisor completes and maintains updated, in the General Health and Safety Co-ordination Plan, the information required in columns 6°, and 9° to 12° when it was not possible to complete them entirely on the issue date of the notification to the relevant statutory authorities.

- ♦ Prepare and update the General Health and Safety Co-ordination Plan

The General Health and Safety Co-ordination Plan is a document which takes into consideration appropriate measures to anticipate the risks ensuing from the conflicting specific risks of the construction work with other activities of the different Contractors on the construction site, or from the succession of their activities when a

Contractor leaves after completion, risks for other Contractors (stockage of dangerous products, plant movement, use of shared safety measures).

The General Health and Safety Co-ordination Plan is attached to documents issued by the Client to the Contractors who intend to contract (the Client is obliged to mention that the construction site is subject to a General Health and Safety Co-ordination Plan), in particular:

1° The administrative information concerning the construction site and, in particular, to complete the notification.

2° The general construction site organization determined by the Architect in consultation with the Planning Supervisor.

3° The co-ordination measures taken by the Planning Supervisor in health and safety and the constraints that ensue concerning, in particular:

- a) traffic zones and routes or horizontal and vertical movement;
- b) conditions for handling various plant and materials, in particular as regards the interference of hoists on or nearby the construction site, as well as the limitation of the use of manual handling;
- c) demarcation and organization of the stocking and storing zones of different materials, in particular concerning dangerous products or substances;
- d) conditions for stocking, elimination or evacuation of waste and rubble;
- e) conditions for removal of dangerous materials used;
- f) use of the shared safety measures, temporary access and the general electrical installation; and
- g) measures taken concerning interactions on the construction site.

4° The constraints resulting from interference with business activities within or near to the site where the construction site is located.

5° The general measures taken to maintain the construction site in good order and in a satisfactory state of salubrity. For building construction projects the cost of which exceeds 760,000€, the measures retained by the Client concerning access, connections to drinking water and electricity distribution networks, the evacuations of spoil etc.

6° The practical local information concerning emergency services and the evacuation of employees as well as the shared procedures on the subject

7° The means of co-operation between Contractors, Employers or Self-Employed persons.

The General Health and Safety Co-ordination Plan is adapted according to the advancement of the construction site and the actual time allocated to the different types of construction work. It is kept updated throughout the duration of the construction work.

Following their preparation, he co-ordinates and adds the Specific Health and Safety Plans prepared by the Contractors.

As from the Tender Action, on their request, the Client issues the General Health and Safety Co-ordination Plan to the labour inspector and the representative of the safety department of the public health service as well as to the representative of *OPPBTP*.

The labour medical officer, the hygiene, safety and employment conditions committee members (CHSCT) or by default, employee representatives can consult the General Health and Safety Co-ordination Plan,.

The Client should keep it for a period of 5 years from the date of Final Completion.

♦ Issue and co-ordinate the Specific Health and Safety Plans

Before commencement of construction, each Contractor including Sub-Contractors, shall prepare a Specific Health and Safety Plan and issue it to:

- the Planning Supervisor, if the project is subject to a General Health and Safety Co-ordination Plan.
- the Client for any one Contractor retained to execute construction work superior to one year duration if the Contractor employs at any time more than 50 employees during more than 10 consecutive working days.

At the award of a contract, the Planning Supervisor is obliged to issue to each Contractor operating on a construction site subject to a General Health and Safety Co-ordination Plan, the names and addresses of the Contractors retained.

On their request, he issues to each Contractor the Specific Health and Safety Plan prepared by the other Contractors.

When it concerns a building project, he is obliged to issue to the other Contractors, the Specific Health and Safety Plans of the structural Contractors or the Main Contractor and the Specific Health and Safety Plans of those retained for construction work presenting specific risks.

C 2.4 – 1st CATEGORY PROJECTS

C 2.4.1 - Definition

Projects whose volume is more than 10,000 person-days and for which the number of Contractors, Self-Employed Persons and Sub-Contractors is more than 10, if it is a building project, and 5 if a civil engineering project.

They are under the obligation to form a health, safety and working conditions Work Party.

C 2.4.2 – Professional Services

- ♦ Prepare Health and Safety File (refer clause **C2.2.2**)
- ♦ Prepare and complete a file future intervention on the building (Refer clause **C2.2.2**)
- ♦ Assist Client with statutory notification (Refer clause **C2.3.2**)
- ♦ Prepare and update General Health and Safety Co-ordination Plan (Refer clause **C2.3.2**)

Other than the provisions referred to in clause **C2.3.2**, in the event of forming a Work Party, the General Health and Safety Co-ordination Plan defines the scope of this Work Party.

This document should also be made available to the members of the Work Party.

- ♦ Issue and co-ordinate the Specific Health and Safety Plans (Refer clause **C2.3.2**)
- ♦ Constitution and chairpersonship of the Health and Safety Work Party.

Constitution :

The Health and Safety Work Party, which should be formed 21 days at the latest before commencement of construction, includes: the Planning Supervisor(s), the Architect appointed by the Client, the Contractors and, in consultative voice, the construction site employees.

Representatives of the relevant hygiene, safety and employment conditions authority, as well as labour medical officers are able to attend the Work Party meetings with consultative title.

The Planning Supervisor appointed for the Construction Phase of the Works chairs the Work Party.

The Work Party rules of conduct are defined by regulation. The Planning Supervisor establishes a regulation proposal during the Design Stage. Convened on initiative of the chairperson, the Work Party shall adopt this proposal.

In particular, on the initiative of the Planning Supervisor, the Work Party can define certain common rules intended to assure compliance with the health and safety measures applicable to the construction site.

The Work Party checks that all the rules prescribed by itself or the Planning Supervisor are effectively implemented.

The chairperson issues the Work Party regulation to the labour inspector, to the regional committee of OPPBTP and to the relevant public health service department for prevention of occupational hazards.

Function:

The Work Party meets for the first time as soon as at least two Contractors are effectively present on the construction site, then at least every three months as convened by its Chairperson.

It can also meet at the request of the majority of the representatives having voting power, on the request of a third of the members representing the employees, following any accident having had or having been able to cause serious consequences.

The Work Party meetings are held on the construction site in appropriate premises and, other than in exceptional circumstances justified by an emergency, during working hours. The meetings are preceded by a site inspection.

The Planning Supervisor convenes and prepares the agenda for Work Party meetings.

The minutes of meeting record to all the decisions taken by the Work Party, site inspection reports, safety training provided by Contractors as well as additional safety training decided upon by the Work Party.

The minutes are recorded in a register made available to the labour inspector, the regional committee of OPPBTP and the relevant public health service department responsible for the prevention of occupational hazards. The Planning Supervisor should keep it for a period of 5 years from the date of Final Completion.

C 3 PROFESSIONAL FEES

C 3.1 – LUMP SUM FEE CALCULATIONS

For the Appointment, the Planning Supervisor is paid exclusively by the Client in the form of fees which are determined in function of, on one hand the time spent and on the other, the nature, the difficulty and the scope of the Appointment resulting from:

- the project category;
- the duration of the project;
- the extent of the construction work;
- the complexity of the project; and
- the scope and extent of the Appointment.

To these fees are added the direct expenses incurred by the Planning Supervisor within the scope of his Appointment. These expenses, as defined in article **A4.3** of the Articles of Agreement, are justified by a written memorandum

C 3.2 – FEE REVISION

The fees are to be revised in accordance with the following formula:

Definitive amount = (Po x 15 %) + (Po x 85 % x Im/Io) + (Fe-Fi), in which

- **Po** = initial cost of fees exclusive of VAT
- **Io** = B.T. 01 indice of the month indicated in article **A5.1** of the Articles of Agreement
- **Im** = B.T. 01 indice of the month at the end of the Appointment
- **Fi** = estimated direct expenses
- **Fe** = actual direct expenses incurred, justified by a detailed memorandum

C 3.3 – VALUE ADDED TAX

The fees so determined are subject to VAT according to the current rates.

C 3.4 – MEANS OF PAYMENT

C 3.4.1 – Payment Terms and Schedule

The fees are payable in accordance with the advancement of the Appointment as scheduled in article **A5** of the Articles of Agreement.

The Client agrees to settle the sums due to the Planning Supervisor for the duration of his Appointment in compliance with the present Agreement and within a maximum period of 21 days from the date of receipt of the account.

C 3.4.2 – Late Payment Indemnity, Interest on Arrears, Recovery and Accounting Expenses

Any late settlement entitles payment of an indemnity of “x”/10,000th of the sum due exclusive of VAT per calendar day.

This indemnity is due without prior formal notice. It nominally covers the expenses of bank charges, interest on arrears and any expenses directly and indirectly incurred by the recovery of accounts.

In the event of disagreement over the amount of an account, payment is made on the provisional basis of the sum acceptable to the Client, who has to justify his contention in writing within 15 days. At the end of this period, the account is considered as accepted and immediately due.

When the sums already paid are less than those that are finally due to the Architect, the latter is entitled to the late payment indemnity calculated on the balance.

C 3.5 – ACCRUED RIGHTS VALUE

In the event of termination of the Appointment, the accrued rights are calculated in accordance with the value of the services determined by their advancement and by article **A5.2** of the Articles of Agreement.

C 3.6 - CONTRACT VARIATIONS – ADDITIONAL SERVICES

Any variation in the Appointment, any changes to the brief or the time schedule requested by the Client or imposed by a third party brought about by a change in regulations or made necessary by unpredictable legal, technical or commercial changes, any additional service subsequent to the fault of a Contractor, any construction period overrun, give rise to the inclusion of an amendment and payment of additional fees.

C 4 RIGHTS AND OBLIGATIONS OF THE PARTIES

C 4.1- CLIENT'S RIGHTS AND OBLIGATIONS

C 4.1.1 - Information des autres intervenants

Client should establish co-operation between the different parties and the Planning Supervisor as from Sketch Design. To this end, he informs all the project parties (Architects, Contractors, etc.) about the intervention of the Planning Supervisor and takes all the necessary contractual measures.

C 4.1.2 – Means given to Planning Supervisor

The Client provides the Planning Supervisor with all the relevant information to undertake his Appointment. To this end, he issues him, in particular:

- the technical data relative to the project (such as soil surveys, the particular site characteristics, etc.)
- any important risk data;
- the planning permission;
- the project specifications; and
- a copy of the notification.

For building construction projects of which the contact sum exceeds 760,000 euro, the Client has preliminary external works undertaken.

He defines and gives the Planning Supervisor the means, in particular financial, necessary for the undertaking of his Appointment.

The Planning Supervisor has free access to the construction site, to the site office and to the material made available to the Architect for his different meetings.

The Planning Supervisor has access to all the meetings organized by the Architect.

The Articles of Agreement defines the terms of the Planning Supervisor's participation at meetings during the Design Phase and site visits during the Construction Phase.

C 4.1.3 – Agreement Determination

As a consequence of the present Agreement, the Client is committed to assure that his obligations are upheld by each individual person or legal entity called upon to replace him.

C 4.2. – PLANNING SUPERVISOR'S RIGHTS AND OBLIGATIONS

C 4.2.1 – Planning Supervisor's Qualifications

The Planning Supervisor has to provide proof of training provided by an approved training body.

Building and civil engineering projects are classified in 3 categories, accordingly the Planning Supervisor can intervene at 3 levels of competence:

- level 1: apt to co-ordinate all projects
- level 2: apt to co-ordinate 2nd and 3rd category projects
- level 3: co-ordination of only 3rd category projects.

The certificate of competence confirming the required training is annexed to the present Agreement.

C 4.2.2 – Planning Supervisor's Authority

The Architect's Appointment, the tender file conditions or construction contracts define the extent of the authority entrusted by the Client to the Planning Supervisor.

The Planning Supervisor provides the Client with all the information relevant for the undertaking of his Appointment.

He shall inform the Client and Architect immediately, and by all available means, of any violation by the parties of the co-ordination measures which he has defined as well as work procedures and statutory obligations for the health and safety of workers on construction sites. These violations are recorded in the Health and Safety File. This information shall be confirmed in writing.

The Planning Supervisor informs the Client in the event of any disagreement between parties.

Should coercive measures (formal notice, court orders, penalties, determination, etc.) be necessary, the Planning Supervisor refers beforehand to the Client who takes the necessary action.

In event of serious and imminent danger threatening the health and safety of a party or a third party (such as risk of fall, burial, etc.), the Planning Supervisor has the authority to take any appropriate measure, including suspending construction. He immediately reports to the Client. The notification to suspend construction is

recorded in the file. When decided by the Client on the Planning Supervisor's advice, resumptions are also recorded in the file.

In event of emergency, the Client gives the Planning Supervisor the necessary means to implement safety measures.

C 4.2.3 - Replacement

The Planning Supervisor can appoint replacements. He informs the Client and the other parties in the project of the intervention of his replacement.

C 4.3 - RESPONSIBILITY – PLANNING SUPERVISOR INSURANCE

In compliance with the provisions of clause L. 235-5-1°, the Planning Supervisor's intervention does not modify neither the nature nor the extent of the responsibilities which bind each of the other parties in the building or civil engineering project.

To guarantee his professional liability, the Planning Supervisor takes out an insurance policy. The insurance certificate covering his liability is annexed to the present Agreement.

C 5 SUSPENSION OF AGREEMENT

The Client can request the suspension of the Appointment. The Planning Supervisor can also request it if, due to external circumstances compromising the undertaking of the project and because neither him nor uncontrollable circumstances, his Appointment cannot continue under the conditions of the present Agreement. The party who requests or claims suspension notifies the other party.

The fees, in proportion to services undertaken, and expenses incurred are then settled with the application of a 10% increase calculated on the total amount of the payment agreed in the Agreement.

When the Appointment resumes, the fees already paid are deducted from the total amount of the fees with the exception of the aforementioned increase. Except as agreed between the parties, if the Appointment is not resumed, for whatever reason, within a period of 90 days following receipt of the notice of suspension, the Appointment is considered terminated and the provisions of clause **C8.1** apply.

C 6 COMPLETION OF APPOINTMENT

The Planning Supervisor's Appointment ends on the date of Practical Completion or, if reservations were emitted, on the date of Final Completion when the intervention of at least two Contractors is required.

C 7 UNAVAILABILITY OF PLANNING SUPERVISOR

If as a result of serious illness, of death or for any other serious cause, the Planning Supervisor is unable to complete his Appointment, a replacement possessing the necessary qualifications and training is proposed to the Client by himself or by his legal successors.

C 8 DETERMINATION OF AGREEMENT

The present Agreement is terminated in law by the party who is neither at fault nor in infraction of his own obligations, one month after a formal notice remains ineffective. Notified by registered letter with recorded delivery, it consists of a statement from the party who benefits from the present clause, in all circumstances of non-fulfilment or breach of the provisions of the present Agreement by the other party.

C 8.1 – DETERMINATION ON CLIENT'S INITIATIVE

In the event of termination on the Client's initiative that is not due to the fault of the Planning Supervisor, the latter is entitled to the payment of:

- the fees and expenses incurred up to the day of this termination, as agreed in clause **C3.4** of the present Agreement;
- the interest on arrears referred to in clause **C3.4.2**; and
- the termination indemnity equal to 20% of that part of the fees that would have been paid if his Appointment had not been prematurely interrupted.

When termination is motivated by the fault of the Planning Supervisor, the termination indemnity of 20% is not due.

C 8.2 – DETERMINATION ON PLANNING SUPERVISOR'S INITIATIVE

The termination of the present Agreement can only be on the Planning Supervisor's initiative on just and reasonable grounds such as the impossibility to undertake his Appointment in respect to current legislation or unsatisfactory safety conditions.

In this event, the Planning Supervisor is entitled to the payment of:

- the fees and expenses incurred up to the day of this termination, as agreed in clause **C3.4** of the present Agreement; and
- the interest on arrears referred to in clause **C3.4.2**.

When termination is justified by the fault of the Client, the Planning Supervisor has also the right to payment of an indemnity equal to 20% of that part of the fees that would have been paid if his Appointment had not been prematurely interrupted.

C 9 DISPUTE RESOLUTION

In the event of disputes concerning compliance with the articles and clauses of the present Agreement, the parties agree to request the advice of the regional council of the Ordre des Architectes where the Planning Supervisor is registered before any legal proceeding other than of preventive action. This referral intervenes on initiative of the more diligent party.